



North Carolina Home Inspector Licensure Board (NCHILB)

Regular Meeting Agenda July 14, 2017

Chairman Butch Upton:

Call meeting to order, opening remarks and welcome guests
Welcome new member Rob Roegner, Commissioner of Insurance Designee
Recognize service of departing member Tony Jarrett
Changes to the agenda.

Vice-Chairman Joe Ramsey:

Read the Ethics Awareness and Conflict of Interest reminder.

1. Review and approval of minutes:
 - a. Regular Meeting: April 7, 2017 (summary only available)
2. Staff Report
3. Committee Reports:
 - a. Application Evaluation W. Sawyer
 - b. Examination TBD
 - c. Finance D.A. Hall*
 - d. Legislative T. Jarrett
 - e. Education F. Herndon**
 - f. Investigation Review F. Herndon
 - g. Standards of Practice / Rules & Interpretations H.G. Gainey***
 - h. Personnel B. Upton
 - i. *Advisory Committee: New Licensee Report Reviews B. Upton
 - j. *Advisory Committee: Budget 1 – 3 Year Plan D.A. Hall
4. Public Comment
5. Unfinished Business:
 - a. NC Association of Realtors® video surveillance
 - b. **Approve Board-Developed Update Course for 2017-2018
 - c. ***Periodic Rules Review
6. New Business:
 - a. Election of Officers 2017-2018
7. Adjournment

NORTH CAROLINA STATE ETHICS COMMISSION
ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER

(to be read by the Chair or his or her designee at the beginning of each meeting)

In accordance with the State Government Ethics Act*, it is the duty of every NC Home Inspector Licensure Board member to avoid both conflicts of interest and appearances of conflict.

*NCGS 138A-15(e) "At the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest and appearances of conflict..."

Do any NC Home Inspector Licensure Board members have any known conflict of interest or potential of conflict with respect to any matters coming before the NC Home Inspector Licensure Board today?

If so, please identify the conflict or potential of conflict and refrain from any undue participation* in the particular matter involved.

Let the minutes show that members of the Board who are licensed home inspectors are reminded that the State Ethics Commission has cited the potential for a conflict of interest because they serve on the Board that licenses them. Board members should exercise appropriate caution in the performance of their public duties should issues involving their licenses or that of any of their employees come before the Board. This would include recusing themselves to the extent that their interests would influence or could reasonably appear to influence their actions.

**"A public servant shall take appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself to the extent necessary, to protect the public interest and comply with this Chapter, from any proceeding in which the public servant's impartiality might reasonably be questioned due to the public servant's familial, personal, or financial relationship with a participant in the proceeding."

The Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. G.S. 138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. G.S. 138A-36(a) prohibits public servants from participating in certain official actions in which they have an economic interest or if the public servant, a member of the public servant's extended family, or a business with which the public servant is associated would otherwise benefit from that action.

In addition to the conflicts standards noted above, G.S. 138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gift rule are set out in G.S. 138A-32(e).

North Carolina Home Inspector Licensure Board Administrative Code
Title 11 - Department of Insurance
Chapter 8 – Engineering and Building Codes
Section - .1116 CODE OF ETHICS

- a) Licensees shall discharge their duties with fidelity to the public and to their clients, with fairness and impartiality to all.
- b) Opinions expressed by licensees shall only be based on their education, experience, and honest convictions.
- c) A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative.
- d) No licensee shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- e) No licensee shall compensate, either financially or through other services or benefits, realty agents or other parties with a financial interest in closing of settlement or real estate transactions for the following:
 - a. Referral of inspections; or
 - b. Inclusion on a list of recommended inspectors or preferred providers.
- f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the inspected property.
- g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be called upon to perform.
- h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection performed by the licensee or that licensee's company.
- i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.
- j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals are dependent on reported findings or on the sale of a property.

MEETING SUMMARY

April 7, 2017 Board meeting held in the NC Dept. of Administration Building

Summary:

- Phillip Gibson – NC Radon Program presentation, inspection of radon mitigation system equipment. Appeal for partnership training for home inspectors like NC Real Estate Commission. Training could include home inspection direction to client for further information. Bonnie Gregory noted issue of back drafting and spillage. Upton asked for a motion to develop education or recommended language for home inspectors about radon. Upton then posed this question as a vote to the board and it was approved by acclamation.
- Minutes of the January 13, 2017 regular meeting, and February 23, 2017 special meeting were approved unanimously.
- Rob Roegner was announced as the Commissioner of Insurance designee to the HILB.
- Hejduk addressed the status of agency Rules Review, audit contract, etc.
- Ramsey and Herndon discussed meeting with Senator Andy Wells on March 7, 2017 regarding SB 8 Ease Occupational Licensing Burdens on Military Families that would make temporary licenses available at no cost. [note: Ratified 06/30/2017 and presented to Governor. Reciprocity with Tennessee and Virginia (new licensing laws effective July)].
 - (f) An occupational licensing board may shall issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under subsection (a) or (b) of this ~~section~~ ~~if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of an occupational licensing board in this State~~ ~~section~~. The ~~military-trained applicant or military spouse may practice under the temporary permit shall remain valid for the later of one year or the required renewal date for the occupation the temporary practice permit was issued for or until a license, certification, or registration is granted or until a 28 notice to deny a license, certification, or registration is issued in accordance with rules adopted by the occupational licensing board.~~
 - (k) A license, certification, registration, or temporary practice permit issued pursuant to this section shall be provided free of cost to the applicant. Nothing in this subsection shall be construed to prohibit an occupational licensing board from charging its ordinary fee for applications for renewal."
- Computer Based Testing (CBT) were discussed by Tart and Hejduk. Herndon and Ramsey emphasized completion of transition to CBT as soon as possible, and not later than 2018.
- Jarrett addressed status of video and audio surveillance with NCREC, NCAR, NC Bar Assoc. [see agenda item under UNFINISHED BUSINESS]. Stanford addressed SB 8 provisions. HB 142 gutted had the list of boards to be consolidated (Barbers and

Cosmetologists), SB 464 require additional reporting to legislature and other agencies, rules for complaints, disciplinary enforcement actions against licensees and unlicensed persons. Supreme Court Dental Case ramifications. Online electronic complaint submission including complaint form through web site. Any rule adopted by the board that would increase fees must go through the legislature as well as the normal rule making process.

- Finance Committee report – Hall, Advisory Committee on budget has not met yet. Lease rate for building \$15 per square foot. Auditor IFB.
- Education Committee report – Herndon. Board-developed update course progress. Planning for future. Recommendations and approval votes on field trainers.
- Investigation Review Committee – establish hearing date for Hawley July 12. Disposition of pending complaint cases.
- Standards of Practice and Rules – Public Comment on Rules Review. New license report reviews.
- Tour of Albemarle Building.

**Staff Report
Executive Director**

1. 2017/2018 Priorities: *Licensing, Education, Investigations*
 - i. Action Item List
 - ii. Examination: Computer Based Testing – *iPads, laptops*
 - iii. Education: Board-developed Update Course 2017/2018
 - iv. Agency Rules Review – *Board action required*

2. Performance Management
 - i. Licensing (Recruitment / Retention)
 - ii. Education (Feedback)
 - iii. Complaint Investigation

3. Budget Execution / Preparation – [Finance Committee]

4. Contracts
 - i. Auditor: *IFB 12-2017011 Issued 6/12; NO BIDS*
 - ii. Inspector: Ray Cox (Charlotte) – end of contract
 - iii. Update Course: Bonnie Gregory
 - iv. Report Reviews: *IFB drafted*

5. Calendar:
 - i. Next Board Regular meeting: Oct. 13, 2017
 - ii. 2017 Quarterly meetings: ~~Jan 13; Apr 7; Jul 14~~; Oct 13
 - iii. Hearing:

6. Disciplinary Actions: Overview for Board

7. Member Terms: NCGS 143-151.46(b)

“...The appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified.”

<u>Name</u>	<u>Appt by</u>	<u>Pos.</u>	<u>Orig Appt</u>	<u>Exp Date</u>
Sawyer	Governor	CO	10/22/10	06/30/18
Jarrett	Governor	RE	06/01/09	06/30/17
Gainey	Governor	HI	08/09/16	06/30/20
Herndon	Pres Pro Tem	HI	07/01/11	07/01/19
Hall	Pres Pro Tem	HI	07/01/14	06/30/18
Upton	Speaker	HI	06/01/13	06/30/17
Ramsey	Speaker	PU	07/01/11	07/01/19
Roegner	Comm. of Ins.	DOI	Designee	Designee

Licensing

<u>Licensing Activities</u>	<u>FY 2016 - 2017</u> <u>7/1/16 thru 6/30/17</u>	
Applications Approved	268	
New Licenses Issued	200	
Paper Exams Administered	249	
Passed	187	75%
Failed	62	
Computer Base Exams Administered	23	
Passed	16	69%
Failed	6	

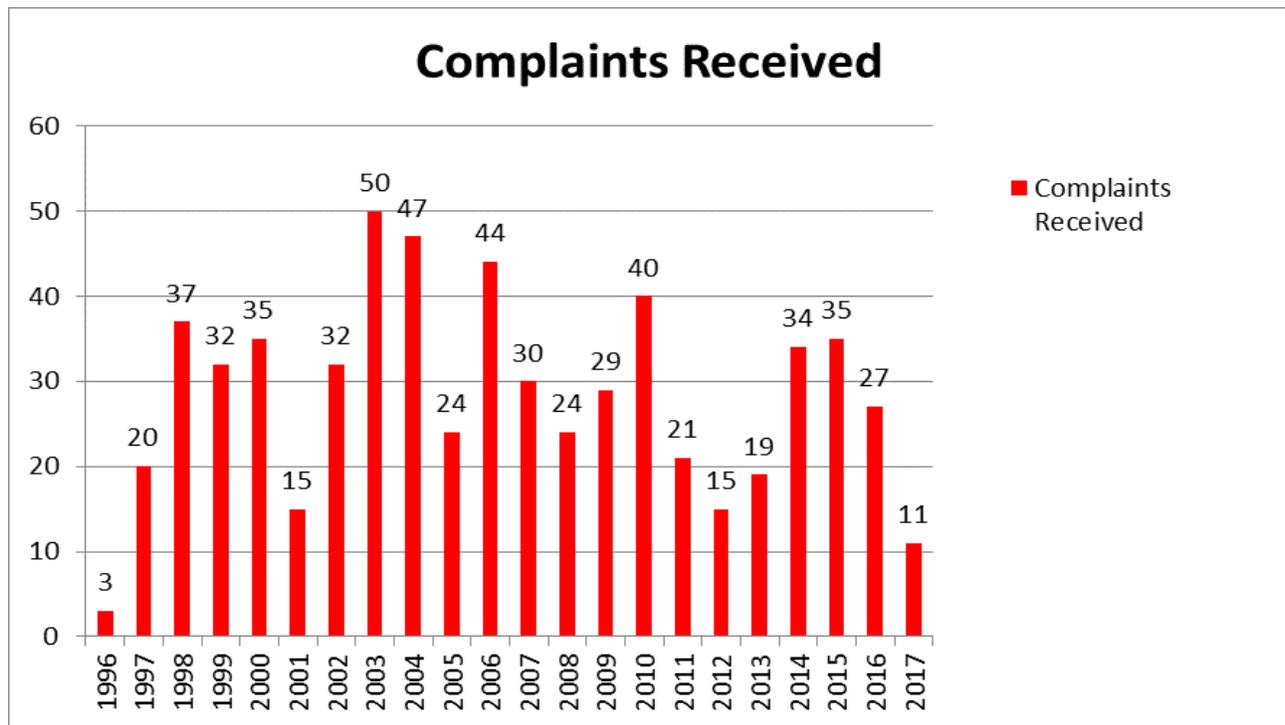
<u>Licensing Activities</u>	<u>4th Qtr</u> <u>04/13/17 thru 7/11/17</u>	
Applications Approved	70	
New Licenses Issued	58	
Paper Exams Administered	87	
April & June		
Passed	65	
Failed	22	
Active Licenses	1,380	
Exam Registration for August 10, 2017	22	

Continuing Education (CE)

CE Activities	FY 2016 - 2017 7/1/16 thru 7/1/17
Course Approvals	55
Course Renewals	62
Course Roster Uploads	450

CE Activities	4th Qtr 4/13/17 thru 7/11/17
Course Approvals	27
Course Roster Uploads	57

Pre-Licensing



CALENDAR YEAR

Complaints Received 2017 = 11

Investigations Completed 2017 = 19

Complaints Received 1st Quarter 2017 = 4

Investigations Completed 1st Quarter 2017 = 11

Complaints Received 2nd Quarter 2017 = 7

Investigations Completed 2nd Quarter 2017 = 8

FISCAL YEAR

Complaints Received 7/1/16 – 6/30/17 = 26

Investigations Completed 7/1/16 – 6/30/17 = 32

FY 2017-2018 Committee Reports
(Effective Date: July 12, 2016)

Application Evaluation Committee:

Chair-Waverly Sawyer, Joe Ramsey, Arthur Hall, Terri Tart (staff)

Examination Committee:

Chair-(TBD), Butch Upton, Fred Herndon, Jennifer Hollyfield (staff)

Finance Committee:

Chair- Arthur Hall, Tony Jarrett, Jennifer Hollyfield (staff)

Legislative Committee:

Chair-Tony Jarrett, Joseph Ramsey, Fred Herndon, Terri Tart (staff)

Education Committee:

Chair-Fred Herndon, Arthur Hall, John Gainey, Jennifer Hollyfield (staff)

Standards of Practice/Rules and Interpretations Committee:

Chair-John Gainey, Arthur Hall, Fred Herndon, Jennifer Hollyfield (staff)

Investigation Review Committee:

Chair-Fred Herndon, John Gainey, Phil Joyner (staff)

Personnel Committee: (*meets on an as-needed basis only*)

Chair-Butch Upton, Waverly Sawyer

Advisory Committee(s):

New Licensee Report Audit Committee:

Chair-Butch Upton, John Gainey, Joe Ramsey

Budget Advisory 1 to 3 year

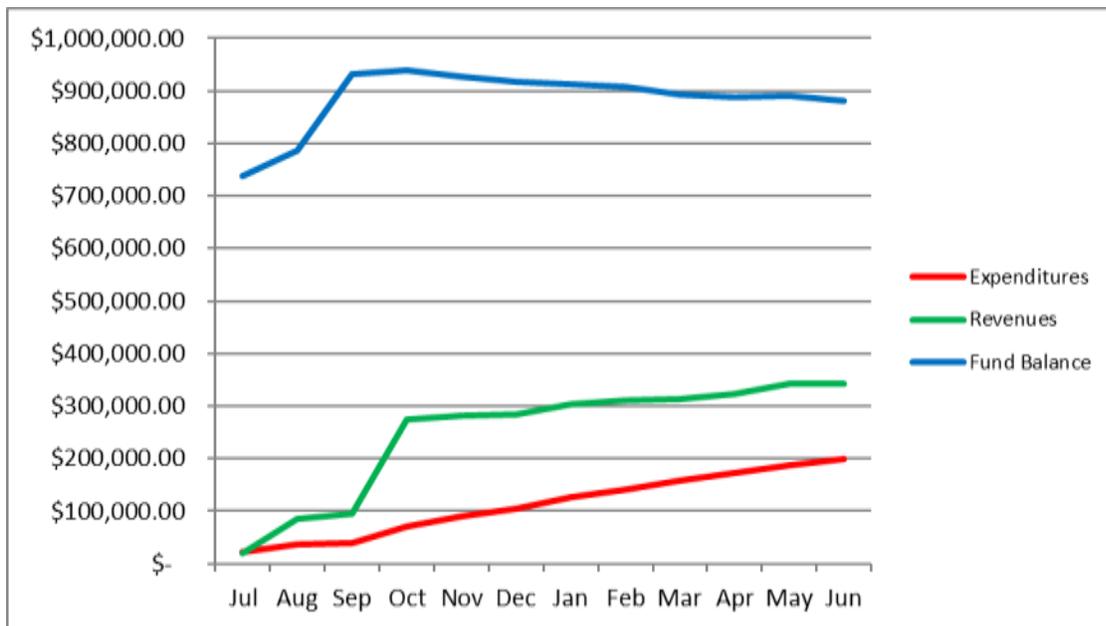
Chair-Arthur Hall, Butch Upton, Joe Ramsey, Rob Roegner, Eric Coates

NOTES:

1. Reference: NCHILB Bylaws – A quorum of any committee shall consist of most all the members of the committee.
2. The Board Chairperson serves as ex-officio member of all committees.
3. Executive Director serves as advisor and attends all committee meetings except for the Personnel Committee.

FY 2016-2017

Month	Expenditures	Revenues	Fund Balance
Jul	\$ 21,639.52	\$ 20,465.00	\$ 736,890.96
Aug	\$ 37,653.42	\$ 86,245.00	\$ 785,395.80
Sep	\$ 38,811.60	\$ 95,855.00	\$ 931,366.64
Oct	\$ 70,569.97	\$ 273,565.00	\$ 939,799.25
Nov	\$ 89,916.25	\$ 281,370.00	\$ 928,257.97
Dec	\$ 104,359.30	\$ 283,925.00	\$ 916,369.92
Jan	\$ 126,847.34	\$ 302,950.00	\$ 912,906.88
Feb	\$ 140,870.73	\$ 311,125.00	\$ 907,058.49
Mar	\$ 157,184.86	\$ 313,945.00	\$ 893,564.36
Apr	\$ 172,573.81	\$ 324,145.00	\$ 888,375.41
May	\$ 187,421.25	\$ 341,805.00	\$ 891,187.97
Jun	\$ 199,112.51	\$ 343,155.00	\$ 880,846.71



BUDGET ADVISORY

NC Home Inspector Licensure Board
Finance Committee, Advisory Committee Budget 1 to 3 year plan
Minutes of May 9, 2017 teleconference meeting

The following individuals attended via teleconference:

Treasurer and Advisory Committee Chairman D. Arthur Hall, Board Chairman Harold “Butch” Upton, Eric Coates, Rob Roegner (NCDOI), M. Denise Stanford (NCDOJ) and Mike Hejduk, Executive Director.

Joe Ramsey did not attend.

The following items of business were discussed related to expenditures and revenues:

1. Computer Based Testing: Upton asked about the status of laptops purchased pursuant to the \$10,000 authorized by the board. Hall asked when the Charlotte Regional office would be able to offer exams. Hejduk stated an order was in process and that staffing of the Charlotte office was being finalized.
2. HILB investigators: Coates requested clarification on the approximate \$40,000 shown in the slide presentation to bring the board investigator to full time status. Hejduk stated this was the increase required to fully fund the position including benefits from the current part-time without benefits. Upton noted that typical business decision criteria was people, process and product. Coates asked whether the contractor currently hired to assist with investigations would be let go if the HILB investigator were increased to full time. Hejduk stated that the current contract with Ray Cox, PE could no longer be extended and would expire and that future contract help would have to be by a different process – Invitation for Bid (IFB) not Personnel Services.
3. Reduce Fees: Due to ongoing strong revenues, the committee discussed the possibility of fee reductions (waive, rebate, refund) such as licensing or \$5 per hour per student CE fee. Stanford noted board audit requirements that would require rule changes. There ensued a discussion by Rob Roegner of development of a non-CE course using NCDOI resources.

A follow up meeting was scheduled for committee meeting day on July 13th at 2:30 pm, the day before the July 14th board meeting.

NC Home Inspector Licensure Board
Finance Committee, Advisory Committee Budget 1 to 3 year plan
Minutes of June 20, 2017 teleconference meeting

The following individuals attended via teleconference:

Treasurer and Advisory Committee Chairman D. Arthur Hall, Board Chairman Harold “Butch” Upton, Joe Ramsey, Eric Coates, Rob Roegner (NCDOI), M. Denise Stanford (NCDOJ) and Mike Hejduk, Executive Director.

The following items of business were discussed and voted on:

1. New Licensee Report Reviews: Hejduk presented an Invitation for Bid (IFB) for review of reports for all home inspectors licensed within the past five (5) years. Hejduk estimated that this could be approximately 500 licensees, most whom qualified to sit for the state exam through pre-licensing. Hejduk estimated the total possible value of the work could be as high as \$50,000 assuming bids of \$50 per hour and 2 hours per review. Hejduk stated the IFB would be for one year with two optional years. Ramsey stated it would be prudent to err on the side of caution with this number of new licensees who may lack extensive field experience. Hall agreed that the pre-licensing course 80-hour field training might be the only field experience some new inspectors have. Upton stated that a home inspector pre-licensing program should really consist of something more like a two (2) year associates degree earned through a community college than a 200-hour course. Upton expressed concern that a Board initiative to require report reviews might be viewed as punitive by licensees but noted that some employers of newly licensed home inspectors could be left “holding the bag” for bad reports without such reviews. Hall made a motion to recommend to the Board that an IFB be issued to perform report reviews. Ramsey seconded the motion. Discussion followed and Stanford was asked whether such reviews were worthwhile. Stanford stated that it might result in less prosecutable complaint cases to be considered by the Board. The committee voted to approve the motion unanimously.
2. NCHILB Lease Rate in Albemarle Building: Ramsey asked what the new lease rate would be in the new permanent location. Hejduk stated that a figure of \$15 per square foot was provided by the NCDOI that equated to \$33,000 per floor but that HILB staff occupied limited space in the new cubicle configurations and overhead fees for common areas had not been discussed. Hejduk then stated that the May 2017 monthly budget report only showed \$10,588 rent/lease for the current fiscal year out of a \$35,000 budget and \$1,500 spent on rooms at the McKimmon Center for two exam administrations and a Board meeting during the temporary relocation to the Dept. of Administration basement. Hejduk noted that NC General Statute 93B requires the NC Dept. of Administration to set lease rates for occupational licensing boards housed in state owned buildings. This item was tabled pending receipt of additional information.
3. Board authorization \$10,000 for Laptops/Tablets: Ramsey asked about the status of the purchase of laptops and/or tablets previously approved by the Board for computer based

testing. Hejduk stated that staff submitted a purchase request but the units had not yet been delivered. Hejduk stated that an iPad with a 9.7” screen has been used for demonstration purposes that will be shown to Board but that initial concern is that this size may not be large enough for examinees and that the data entry without a keyboard may be difficult.

4. Full-time investigator: Roegner stated that if the HILB was prepared to resume/increase reimbursements of staff salaries curtailed the past several years, NCDOI would be agreeable to share two the COQB (Code Officials Qualification Board) investigators with the HILB provided HILB funded 25% of their cost. In other words, for only \$15,000 more than was currently being spent for one engineering technician part-time, the HILB would essentially have two part-time professional engineers. Upton noted the HILB had already funded both to attend HILB pre-licensing training and both have passed the HILB state exam. Coates stated his understanding that this proposal was that for \$50,000, the HILB would have two engineers that also hold code official certificates performing investigations. Roegner stated that the current HILB investigator would be offered opportunities for reassignment to another full-time position with benefits within NCDOI/OSFM. Hejduk stated that the current \$10,000 Personnel Services contract with Ray Cox, PE would expire effect June 30 and due to the new IFB requirements could not be renewed representing an additional savings. Upton made a motion to recommend to the Board to fund 25% of two COQB engineers. Ramsey seconded the motion. The committee voted to approve the motion unanimously.
5. Auditor: Hall asked Hejduk the status of hiring another auditor. Hejduk stated that an IFB had been issued, had received questions from one potential bidder and that a bid opening and award was scheduled prior to the July Board meeting. Since the previous audits had cost about \$8,000 per year, the committee noted that budgeting \$10,000 per year for future audits was reasonable.
6. HILB staff funding: Hejduk stated that licensing and customer service staff supporting the HILB were not reimbursed at 50% or 30% by HILB for the work they perform, about \$31,500 total. Ramsey noted that with the current 1,350 licensees, increased funding of these positions should be considered by the Board.
7. Possible Fee Reductions: Hejduk stated that while discussions so far had focused on expenditures, surplus revenues could also be addressed by reducing fees but this would require rule changes that typically take six months. Committee members expressed the opinion that staff funding changes would largely address annual revenue surplus and that no fee reductions should be planned now.
8. Advanced Education Course Development: Upton stated that some of the fund balance could be used to contract development of advanced education courses for inspectors in addition to the annual board-developed update course. Coates stated that additional courses for the four (4) hours education required for new licensees that do not qualify by pre-licensing were needed such as residential code requirements, report writing, code of ethics, HVAC and

Electrical. Upton made a motion to recommend to the Board, that the Education Committee consider contracting up to \$25,000 to develop such courses. Hall seconded the motion. The committee voted to approve the motion unanimously.

INVESTIGATION REVIEW

INVESTIGATION REVIEW COMMITTEE COMPLAINT DETERMINATION RECOMMENDATIONS TO THE BOARD (07/14/17)

Hearing - Canceled

1. **642** Hawley #2215 (Johnson) – Franklin (2/2/16) – *Consent Order*
1. **657** Hawley #2215 (Ciafardini) – Franklin (9/26/16) – *Consent Order*

Consent Agreement

1. **655** Forsha #2132 (Englestad) – *CA proposed*
2. **662** Runion #1928 (Loveless) – *signed*
3. **663** Morris #2829 (Lech) – *signed*
4. **665** Coleman #3365 (Petrenko) – *signed*
5. **669** Tatum #1233 (Chang) – *signed*
6. **673** Marshburn #1657 (Babocsi) – *signed*

Dismiss with Letter of Caution

1. **661** McKnight #2317 (Moore)
2. **672** Schult #3579 (NCHILB)

Dismiss

1. **668** Denton #1052 (Jones)
2. **670** Brown #107 (Barringer)
3. **674** Delamar #84 (Councilman)
4. **676** Bentley #142 (Sanders)

Unlicensed Activity

N/A

UNFINISHED BUSINESS

- a. NC Association of Realtors® video surveillance
- b. Approve Board-Developed Update Course for 2017-2018
- c. Rules Review

NC Association of Realtors® video surveillance

From: Tony Jarrett [mailto:tony.jarrett@allentate.com]

Sent: Wednesday, June 21, 2017 4:19 PM

To: Hejduk, Mike <Mike.Hejduk@ncdoi.gov>

Subject: July Board meeting

I would like to request these details be added to the July Board meeting agenda. These are new changes implemented by the NC Association of Realtors to the Exclusive Right to Sale Agreement and the Buyer Agency Agreement, based on feedback from the NC Home Inspectors Board.

The following is at the end of the Marketing Section in the Exclusive Right To Sale Agreement:

WARNING: IT MAY BE A CRIME UNDER FEDERAL AND STATE LAWS TO LISTEN TO OR RECORD AN ORAL COMMUNICATION THROUGH THE USE OF ANY ELECTRONIC, MECHANICAL, OR OTHER DEVICE WITHOUT THE CONSENT OF A PARTY TO THAT COMMUNICATION. If there is a video/audio/surveillance device(s) on the Property, Seller is advised: (i) that no audio surveillance device may be turned on during any showings, open houses, investigations, examinations or inspections of the Property; and (ii) that the placement of any video surveillance device should not violate a visitor's reasonable expectation of privacy.

The following new paragraph was added to the Buyer Agency Agreement:

17. SURVEILLANCE: Buyer is advised to be mindful of the fact that there could be video/audio/surveillance/audio device(s) located on any property examined by Buyer and that Buyer or Buyer's representatives may be under surveillance during any such examination. Federal and State laws prohibit the interception of an oral communication through the use of any electronic, mechanical, or other device, whether or not recorded, without the consent of a party to that communication. However, video surveillance without consent is not illegal.

NCAR and NC Bar Association decided not to address in the Offer to Purchase and Contract, but instead sent to NCAR Forms Committee to address with client agreements where Realtors can set expectations - that committee wrote these new clauses. Hopefully this will provide better experiences for Home Inspectors, especially with the expectations set with sellers. Just wanted to give an update to the Board as these clauses become official in the new agreements beginning on July 1, 2017.

NEW BUSINESS

a. Election of Officers